



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/173254

PRELIMINARY RECITALS

Pursuant to a petition filed March 28, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability["DHCAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on May 10, 2016.

The issue for determination is whether DHCAA was correct to deny Prior Authorization ["PA"] for MA payment for Physical Therapy ["PT"] for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at May
10, 2016 Hearing)

[REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED], petitioner's father

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], DPT. Therapies Consultant [REDACTED] did not appear
at the May 10, 2016 Hearing but submitted a letter dated April 18, 2016 (Exhibit
#1)].

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (7 years old) is a resident of Brown County, Wisconsin.
2. Petitioner has a diagnosis of epilepsy; she has a G-tube which is her primary means of nutrition; her gallbladder has been removed. Exhibit #1.
3. On December 30, 2015 petitioner's provider, Cerebral Palsy, Inc. of Green Bay, Wisconsin, requested PA (PA # [REDACTED] dated December 30, 2015) for MA coverage of PT for petitioner at the rate of 1 session per week for 16 weeks for 45 minutes each session with a requested start date of January 13, 2016 at a total cost of \$12,998.40. Exhibit #1.
4. On February 16, 2016 DHCAA denied PA # [REDACTED]; DCHAA sent a letter to petitioner dated February 16, 2016 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial. Exhibit #1.
5. Petitioner attends school ½ days for 5 days per week; she receives PT at school for 60 minutes each week, she also receives Occupational Therapy ["OT"] 40-60 minutes per week as well as special education and other related services as provided in her Individualized Education Plan ["IEP"]. Exhibit #1.
6. Petitioner received private PT continuously from October 29, 2013 to September 12, 2015; according to a January 18, 2016 letter from petitioner's PT petitioner's family has participated in every therapy session and the skills that are worked on are functional and can be easily incorporated into petitioner's everyday life (including standing and walking); the family works on all skills in the home as time allows (they are currently working with walking in the gait trainer).

DISCUSSION

By law, MA pays only for medically necessary and appropriate health care services when provided to currently eligible MA recipients. Wis. Admin. Code §§ DHS 107.01(1) & 107.16(1)(a) (August 2015); See also, Wis. Stat. §§ 49.46(2) & 49.47(6)(a) (2013-14). In order for a service to be *medically necessary* it must meet several specific requirements. See, Wis. Admin. Code § DHS 101.03(96m) (December 2008). As with any eligibility denial, the burden is on petitioner to show that she is eligible for the requested services. *Lavine v. Milne*, 424 U.S. 577, 583-584 (1976). Petitioner has failed to do so.

One of the requirements for *medical necessity* is that the service must be the most appropriate supply or level of service that can safely and effectively be provided to the recipient. Wis. Admin. Code § DHS 101.03(96m)(b)9. (December 2008). Another is that the requested service must be cost-effective compared to an alternative medically necessary service which is reasonable accessible to the recipient. . Wis. Admin. Code § DHS 101.03(96m)(b)8. (December 2008). In this case petitioner has failed to show that the requested PT is most appropriate supply or level of service and has also failed to show that the requested PT is cost-effective compared alternative services. This is because no adequate explanation has been provided as to why the PT petitioner receives at school along with her family's home program is not sufficient to meet her needs. In this regard it is noted that no documentation been provided of any coordination between petitioner's private PT and school PT. See, *ForwardHealth Prior Authorization /*

Therapy Attachment (PA/TA), dated December 29, 2015 (Section IV, #16). Indeed, petitioner's private PT acknowledges that goal #2 is duplicative between petitioner's private PT and school PT. See, January 18, 2016 letter.

CONCLUSIONS OF LAW

For the reasons discussed above, DHCAA was correct to deny PA for MA payment for PT for petitioner.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

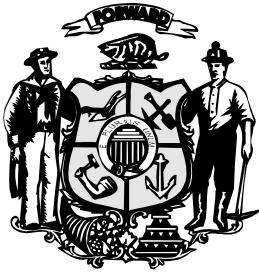
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of May, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 19, 2016.

Division of Health Care Access and Accountability